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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,079 10/20/2000		10/20/2000	Gregory John McAvoy	Gregory John McAvoy MJ20US	
24011	7590	12/30/2002			
		ESEARCH PTY	EXAMINER		
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AUSTRALIA				,	
NOSTICIEN	•			ART UNIT	PAPER NUMBER
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				DATE MAILED: 12/30/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicating Application			mx - 8				
Examiner Art Unit	· · · ·	Application No.	Applicant(s)				
Archene Turner The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period to reply sepecified above is less than thiny (30) says, a reply within the distinctive minimum of their (20) says with be considered timely. If the period to reply sepecified above is less than thiny (30) says, a reply within the distinctive minimum of their (20) says with be considered timely. If the period to reply sepecified shows he manimum relationship mention of their (20) says, a reply within the distinctive minimum of their (20) says with be considered timely. If the period to reply sepecified shows he manimum relationship mention of their (20) says with the constitution of their communication. If the period to reply sepecified shows he manimum relationship mention of their communication. If the period to reply sepecified shows he manimum relationship mention of their communication. A proper served by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any search of the same shows the same shows the same shows the same relation. Status Status Status Status Status Status Signer this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims Application (S. 1-12) [slare pending in the application. 4) Claim(s)		09/693,079	MCAVOY ET AL				
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1) Responsive to communication(s) filed on 21 October 2002. 2a) This action is FINAL. 2b) This action is non-final. 3.) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4.) Claim(s) 1-10 is/are pending in the application. 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration. 5.) Claim(s) 5-10 is/are allowed. 6.) Claim(s) 5-10 is/are rejected. 7.) Claim(s) is/are objected to. 8.) Claim(s) 5-10 is/are objected to. 8.) Claim(s) 1-2 is/are objected to. 8.) Claim(s) 1-3 is/are objected to by the Examiner. 10. The drawing(s) filed on 1-2 is/are: a) 1-3 accepted or b) 0-3 objected to by the Examiner. Application Papers 9.) The specification is objected to by the Examiner. 10. The proposed drawing correction filed on 1-2 is: a) 1-3 approved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12. The proposed drawing are required in reply to this Office action. 12. The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. 1-2. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 15. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 (to a provisional application). a) The translation of the foreign language provisional application has been received. 15. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 end/or 121.	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period working to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be y within the statutory minimum of thirty (30) vill apply and will expire SIX (6) MONTHS fr , cause the application to become ABANDO	days will be considered timely. Tom the mailing date of this communication. The mailing date of this communication. The mailing date of this communication.				
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Application/Control Number: 09/693,079

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan et al (5,917,226).

Chan et al discloses the claimed metal compounds used in an expansive element (see claim 4).

3. Claims 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Carr et al (5,870,007).

Chan et al discloses the claimed metal compounds used in an expansive element (column 7, line 37).

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4. Claims 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Bozler et al (6,127,908).

Bozler et al discloses the claimed metal compounds used in an expansive element (column 9, line 59-60).

5. Claims 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Carr (56,130,464).

Carr discloses the claimed metal compounds used in an expansive element (column 6, line 38).

- 6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 7. Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang et al ("Testing and Characterization....Analysis') and Ozaki et al (5,409,762).

Yang et al discloses and metal nitride used as a part of an actuator (see figure 1).

Ozaki et al discloses the claimed metal compounds used as electrical materials Abstract).

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Thus it would have been obvious to one of ordinary skill in the art to used the claimed metal compounds in an actuator, as these materials are known in the electrical art to provide the claimed properties, as shown by Ozaki et al

8. Applicant's arguments with respect to claims 5-10 have been considered but are

moot in view of the new ground(s) of rejection.

9. Any inquiry regarding this communication or earlier communications from the

Examiner should be directed to Archene Turner, whose telephone number is (703) 308-

4344. The Examiner can normally be reached Monday to Thursday from 8:30 AM to

6:00 PM.

A facsimile center has been established in Group 1700, Crystal Plaza 2, 8th floor,

reception area. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM.

The telecopier number for accessing the facsimile machine is (703) 305-3599 (for

official after final faxes) or (703) 305-5408 (for all other official faxes). This location

should be used in all instances when faxing any correspondence to Art Unit 1775. Use

of the Group 1700 center will facilitate rapid delivery of materials to Examiners in Art

Unit 1775.

Any inquiry of a general nature or relating to the status of this application should

be directed to the Group receptionist whose telephone number is (703) 308-0661.

A. A. Turner

Primary Examiner

Group 1700

aat